

*Application no. 10/631,1110
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REMARKS/ARGUMENTS

Claim 4 has now been amended to include the correct status identifier. The previous identifier of (Amended) has been amended to (Currently Amended).

Applicant has cancelled claims 1 to 3, amended claim 4 and added claim 6. The cancellation of Claims 1-3 is done with a view to receive an earlier Notice of Allowance. Applicant respectfully reserves the right to file at least one divisional application on the cancelled subject matter.

The Examiner has rejected claims 1 to 3 as being indefinite under 35 U.S.C. 112, for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. As indicated above, Applicant has cancelled (without prejudice) Claims 1-3.

The Examiner has also rejected Claims 4 and 5 as being indefinite under 35 U.S.C. 112 for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claims 4 and 5 are directed at a frame and vibration mount assembly for a mobile communication device. Applicant has amended Claim 4 to replace the term "thereof" with the term "of the motor" in order to overcome the Examiner's rejection. Retraction of Examiner's rejection of Claims 4 and 5 is respectfully requested.

The Examiner has rejected Claims 4 and 5 under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,714,123 to Miyake ("Miyake"). Applicant respectfully believes that the reference which has been cited by the Examiner is incorrectly cited under 35 U.S.C. 102. The section states that a person shall be entitled to a patent unless (b) the invention was

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patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States. However, the issue (publication) date for the cited reference is March, 30, 2004 which is after Applicant's filing date of July 31, 2003. In view of this, Applicant respectfully believes that the cited reference is not applicable. However, in view of the corresponding Canadian application (CA 2,316,717) which was published on February 27, 2001, Applicant respectfully responds to the current Office Action based on the merits of the rejection.

Applicant's invention is directed at a frame and vibration motor mounting assembly for a mobile communication device comprising:

a frame generally parallel to a reference plane;

a mounting slot in a motor installation surface of said frame, **said motor installation surface being angled away from said reference plane, said mounting slot being normal to said reference plane** and accordingly angled with respect to said motor installation surface; and

a boot positionable in said mounting slot, having an exposed surface generally parallel to said motor installation surface, and having a motor-receiving slot for receiving a vibration motor, **said motor-receiving slot having an axis angled from an axis of said mounting slot** and generally normal with respect to said motor installation surface, whereby said vibration motor is configured to be installed in said motor-receiving slot with an upper surface of said motor generally parallel to said motor installation surface.

Applicant respectfully believes that Miyake neither anticipates nor obviates the subject matter of amended Claim 4. Firstly, the frame of Miyake is the front case 11 or the rear case 12. Therefore the reference plane for this frame is parallel to the surface of either the front case or the rear case or parallel to the circuit board 32 as indicated by the Examiner.

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The holder 5 is not a frame for the mobile communication device. Therefore, with this definition of the reference plane, the mounting slot of Miyake is therefore parallel to the reference plane and not "**normal to the reference plane**" as required by Applicant's claim.

Even if one was to construe the holder 5 as the frame, the motor installation surface of Miyake is not "**angled away from the reference plane.**" Rather the motor installation surface is either parallel or perpendicular to the reference plane of the holder.

Moreover, in Miyake, the boot does not include a "**motor-receiving slot having an axis angled from an axis of the mounting slot**". Instead, the axis of the mounting slot and the motor receiving slot of Miyake are in the same plane and therefore parallel to each other.

Retraction of Examiner's rejection of Claims 4 and 5 is respectfully requested.

We look forward to further communication on this application.

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